

The Director's office, parties, and Administrative Law Judge all treated this proceeding as a preliminary hearing within the context of a post-award request for additional medical treatment. As such, the jurisdiction of the Appeals Board to review preliminary hearing findings is statutorily created by K.S.A. 44-534a. The statute provides the Appeals Board may review those preliminary findings pertaining to the following: (1) whether the employee suffered an accidental injury; (2) whether the injury arose out of and in the course of the employee's employment; (3) whether notice was given or claimant

timely made; and (4) whether certain defenses apply. The Appeals Board also has jurisdiction to review preliminary hearing findings if it is alleged an Administrative Law Judge exceeded their jurisdiction. See K.S.A. 44-551, as amended by S.B. 59 (1995).

Because the issues presented here are not enumerated in K.S.A. 44-534a, nor did the Administrative Law Judge exceed his jurisdiction and authority in denying claimant's request for additional medical care and treatment, the issue is not reviewable under either of the above statutes. The language in the Award, "future medical, upon proper application to the Court," is interpreted to mean that claimant may request the Administrative Law Judge to authorize additional medical care and treatment at respondent's expense upon a proper showing that it is both reasonable and necessary, and related to claimant's work-related injury.

If desired, the parties may now proceed to regular hearing and final order.

WHEREFORE, it is the finding, decision, and order of the Appeals Board that this review should be, and hereby is, dismissed; that the Preliminary Hearing Order of Administrative Law Judge George R. Robertson entered in this proceeding on May 5, 1995, remains in full force and effect.

IT IS SO ORDERED.

Dated this ____ day of August, 1995.

BOARD MEMBER

BOARD MEMBER

BOARD MEMBER

c: Robert A. Anderson, Ellinwood, Kansas
W. John Badke, II, Wichita, Kansas
George R. Robertson, Administrative Law Judge
Philip S. Harness, Director